

## Chapter 32

### ETHICS

#### **Sec. 32-1. Public policy.**

It is hereby declared to be the policy of the city that all public officials and employees must avoid conflicts between their private interests and those of the general public whom they serve. To enhance the faith of the people and the integrity and impartiality of all public officials and employees of the city, it is necessary that adequate rules be provided for separating their roles as private citizens from their roles as public servants. Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his or her government. Each individual official, employee, or advisor of government must help to earn, and must honor that trust by his or her own integrity and conduct in all official duties and actions.

(Ord. No. 1337, § 1, 1-22-96)

#### **Sec. 32-2. Definitions.**

Whenever used in this chapter, the following terms shall have the following meanings:

*City* means the City of Midland.

*Compensation* means any money, thing of value or other compensatory or pecuniary benefit received or to be received in return for, or as reimbursement for, services rendered or to be rendered.

*Controlling authorities* means those persons identified in section 32-5 to whom inquiries must be directed.

*Decision making* means exercising public power to adopt ordinances, regulations or standards, rendering quasi-judicial decisions, establishing executive policy, or rendering a governmental decision as that term is defined in Section 2a [MSA 4.1700(72a); MCLA 15.342a] of Public Act 196 of the Public Acts of the State of Michigan of 1973, as amended [MSA 4.1700(71) et seq; MCLA 15.341 et seq.].

*Economic interest* means any interest valued or capable of valuation in monetary terms.

*Employee* means an individual employed by the city, whether part-time or full-time, but excludes elected officials and city contractors.

*Gift* means anything of value given without consideration or expectation of return.

*Official* means any person holding any elected office of the city or any appointed, non-employee member of any city board or commission.

*Official duties* or *Official action* means a decision, recommendation, approval, disapproval, or other

action or failure to act which involves the use of discretionary authority.

*Person* means any individual, entity, corporation, partnership, firm, association, union, trust, estate, and any parent or subsidiary of any of the foregoing, whether or not operated for profit.

*Relative* means a person who is related to an official or employee as spouse or as any of the following, whether by blood or by adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister, half-brother or half-sister.  
(Ord. No. 1337, § 1, 1-22-96)

### **Sec. 32-3. Code of ethics.**

(a) *Gift, compensation or economic interest.* No official or employee of the city shall solicit, accept or receive, directly or indirectly, any gift, compensation or anything of an economic interest, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under any circumstance in which it can reasonably be inferred that any of the foregoing is intended to influence him or her in the performance of his or her official duties or is intended as a reward for any official action on his or her part.

(b) *Preferential treatment.* No official or employee of the city shall use, or attempt to use, his or her position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for himself or herself, a relative or any other person.

(c) *Use of information.* No official or employee of the city who acquires information in the course of his or her official duties, which information by law or policy is not available at the time to the general public, shall use such information to further the private economic interests of himself or herself, a relative or any other person.

(d) *Full disclosure.* No official or employee of the city shall participate, as an agent or representative of the city, in approving, disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she or a relative has a direct or indirect economic interest without disclosing the full nature and extent of the interest. Such a disclosure must be made before the time to perform his or her duty or concurrently with the performance of the duty. If the official or employee is a member of a decision-making or advising body, he or she must make disclosure to other members of the body on the official record. Otherwise, a disclosure will be appropriately addressed by an appointed official or employee to the city manager or by an elected official to the general public. In the case of the city manager and the city attorney, he or she shall make such a disclosure to the mayor.

No official or employee or relative shall engage in any business transaction whereby the official or employee or relative may benefit financially from confidential information which the official or employee has obtained or may obtain by reason of that position or authority.

(e) *Doing business with the city.* No official, employee or relative shall engage in any business with the city, directly or indirectly, without filing a complete written disclosure statement for each business activity having an economic interest to any of the foregoing. Such a disclosure shall be made on an annual basis or prior

to any decision-making not previously disclosed by an annual disclosure.

(f) *Use of city property.* No official or employee of the city shall, directly or indirectly, use or permit a relative or other persons to use city property of any kind for his or her private economic interest or that of a relative or other person. City officials or employees shall strive to protect and conserve all city property including equipment and supplies entrusted or issued to them.  
(Ord. No. 1337, § 1, 1-22-96)

#### **Sec. 32-4. Intention of code.**

It is the overall intention of section 32-3 above that officials and employees and their relatives shall avoid any action, whether or not specifically prohibited by section 32-3, which might result in, or create the appearance of:

- (1) Using public employment or office for his or her economic interest;
- (2) Giving or accepting preferential treatment to or from any person;
- (3) Impeding city efficiency or economy;
- (4) Losing independence or impartiality of action;
- (5) Making a city decision outside official channels;
- (6) Affecting adversely the confidence of the public or integrity of the city government; or
- (7) Giving or accepting preferential treatment in the use of city property.

Section 32-3 is intended to be both preventative and punitive. It should not be construed to interfere or abrogate in any way with the provisions of any Michigan Statutes, the city Charter, the Code of Ordinances of the city, the rules and regulations of the merit system board or any collectively bargained agreement.

In addition, section 32-3 is not intended to prevent any official or employee of the city from receiving compensation for work performed on his or her own time as a private citizen which does not involve city business. Nor is section 32-3 intended to apply to contributions to political campaigns which are governed by state or federal law.  
(Ord. No. 1337, § 1, 1-22-96)

#### **Sec. 32-5. Violation, enforcement and advisory opinions.**

(a) All matters concerning the code of ethics set forth in section 32-3 shall be directed to one (1) of the two (2) following controlling authorities depending upon the employment status of the city official or employee involved:

- (1) Elected and appointed officials of the city to the mayor, city manager and city attorney. In matters concerning the mayor, city manager or city attorney, the mayor pro-tem will assume the

controlling authority position in place of the affected official.

- (2) Employees, full- and part-time, of the city to the city manager and city attorney.

(b) The above-listed authorities, when requested, shall take appropriate action on the basis of consensus upon any complaint or request for information concerning the code of ethics of the city. The appropriate action to be taken in any individual case shall be at the discretion of the controlling authority involved, which may include but is not limited to any of the following:

- (1) Referral of the matter to a higher authority.
- (2) Pursuing further investigation by the controlling authority.
- (3) Recommending appropriate disciplinary action, including removal from office, appointed position or employment, in accordance with the city Charter, the city Code of Ordinances, the regulations or policies of the city or the requirements of any collectively bargained agreement.
- (4) Deeming no action to be required.
- (5) Pursuing such other course of action which is reasonable, just and appropriate under the circumstances.

(c) The above listed controlling authorities may render written advisory opinions, when deemed appropriate, interpreting the code of ethics as set forth in section 32-3 above, subject to the following:

- (1) Request for opinions shall be in writing.
- (2) Advisory opinions may include guidance to any employee or official on questions as to:
  - a. Whether an identifiable conflict exists between his or her personal interest or obligations and his or her official duties.
  - b. Whether his or her participation in his or her official capacity would involve discretionary judgment with a significant affect on the disposition of the matter in conflict.
  - c. What degree his or her personal interest exceeds that of other persons who belong to the same economic group or general class.
  - d. What effect his or her participation would have on the confidence of the people in the impartiality of their city officials and employees.
  - e. Whether a disclosure of his or her personal interests would be advisable and, if so, how such disclosure should be made so as to safeguard the public interest.
  - f. Whether it would operate in the best interest of the city for him or her to withdraw or

abstain from participation or to direct or pursue another course of action in the matter.

(d) Notwithstanding the foregoing, section 32-5 shall be considered as only supplementary to Rule XII, Section D, of the merit system board rules and regulations as to all matters concerning employees of the city.

(Ord. No. 1337, § 1, 1-22-96)

**Sec. 32-6. Adoption of principles and guidelines concerning public service ethics.**

(a) The Summary--Principles of Public Service Ethics published by the Josephson Institute (Government Ethics Center), copyright 1990, hereinafter referred to as the "summary," is hereby incorporated by reference and adopted as a guideline for all public officials and employees of the city to aid in the performance of their duties.

(b) The adoption of the summary is intended to be utilized only as a guideline and, except as the language found in the summary may be useful to the controlling authorities in fulfilling their responsibilities as set forth in section 32-4, the summary shall not be considered as a part of the code of ethics set forth in section 32-3. To the extent that the language found in the summary may differ from the language found in sections 32-1 through 32-5, the language of the latter shall be controlling.

(Ord. No. 1337, § 1, 1-22-96)